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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,339	08/01/2003	Louis A. Antonucci	03542	3587
7590	08/26/2004		EXAMINER	
ROY A. EKSTRAND 3158 REDHILL AVE., STE 150 COSTA MESA, CA 92626			BUI, THACH H	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/632,339

Applicant(s)

ANTONUCCI, LOUIS A. 

Examiner

Thach H Bui

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is vague and indefinite because "the chamber spray head has an opening at a sidewall thereof allowing the supply tube to extend to the texture supply" renders the claim unclear. Should it be "the chamber spray head has an opening at a sidewall thereof allowing the supply tube to extend to the texture supply container"? See claim 7 for the same informality.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Jett et al. (U.S. Patent no. 3,820,722).

As per claims 1 and 10, Jett et al. teach a spray gun comprising a chamber spray head (13) having a one-way check valve (27) installed at a first end thereof to allow a compressed air flowing therein, and a nozzle (20, 21) connected to the second end of the chamber spray head. The apparatus includes a supply tube (29) extending across the chamber spray head with an inlet entering a texture supply and an outlet entering the nozzle (see Fig. 1 and 2). The supply tube comprises an outlet (33) of which is restricted in the nozzle with an adjustable space to reciprocate responsive to the compressed air, and the outlet is structured that the compressed air is introduced from the chamber spray head to adjust a pattern of a texture flowing therethrough (col. 6, lines 9-64). Furthermore, the supply tube includes an inlet (30) structured that the compressed air is able to flow from the chamber spray head to the texture supply to drive the texture into the supply tube.

As per claim 2, the chamber (13) i.e. the hollow body is connected to a compressed air source (22).

As per claims 3 and 4, the apparatus comprises a nozzle seat (20) inserted between the nozzle and the chamber spray head, and the nozzle is adjustably mounted on the nozzle seat (see Fig. 2 and 3).

As per claim 5, Jett et al. teach a supply tube (29) of which has a dimension smaller than an outside diameter of the nozzle seat (20), such that compressed air can flow from the chamber spray head to the nozzle.

As per claims 6 and 7, the chamber spray head has an opening at a sidewall thereof (28, 35) allowing the supply tube to extend therethrough. The opening (28) is

larger than the dimension of the supply tube, such that the compressed air can flow from the chamber spray head into the texture supply container.

As per claims 8 and 9, the outlet has a protruded structure (32) at a perimeter and has at least one hole (see fig. 4) such that the compressed air flowing from the chamber spray head can enter the supply tube at the outlet.

3. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Lau et al. (U.S. Patent no. 4,174,071).

As per claim 11, Lau et al. teach a spray gun comprising a texture supplying material (25), a chamber spray head (22) coupled to the texture material supply container having a compressed air input (32), a nozzle (34), and a supply tube (38) extending from the nozzle to the texture material supply container. The compressed air gun has a means to couple to a source of compressed air, an input passage coupled to the means for coupling, and an output passage coupled to the chamber spray head (30, 68 and 70). Further, the apparatus includes a trigger unit (44) interposed between the input and output passages and operable in open and closed state. The compressed air gun comprises an air bleed port (62) to release existing air pressure.

#### ***Allowable Subject Matter***

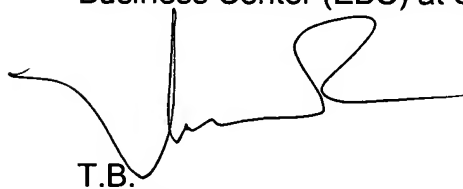
4. Claims 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach H Bui whose telephone number is 703-305-0063. The examiner can normally be reached on Monday-Friday, 7:30-4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



T.B.  
08/23/2004